

AO 106A (08/18) Application for a Warrant by Telephone or Other Reliable Electronic Means

UNITED STATES DISTRICT COURT

for the
District of New Mexico

FILED
United States District Court
Albuquerque, New Mexico
Mitchell R. Elfers
Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

DNA OF IRA B. HARRIS
YOB: 1967

Case No. 22-MR-1396

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See attachment A, which is incorporated by reference.

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See attachment B, which is incorporated by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. §§ 1152 & 2242(2) (A)	Engaging in a sexual act with a person who was incapable of apprising the nature of the conduct.
18 U.S.C. §§ 1152 & 2243(a)	Sexual abuse of a minor.

The application is based on these facts:

See attached Affidavit, which is incorporated by reference.

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Alyson Berry, Special Agent, FBI

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
_____ telephone _____ (specify reliable electronic means).

Date: 09/19/2022

Judge's signature

City and state: Farmington, NM

B. Paul Briones, United States Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR NEW MEXICO

IN THE MATTER OF DNA OF IRA B.
HARRIS, YOB: 1967

Case No. 22-MR-1396

**AFFIDAVIT IN SUPPORT OF AN
APPLICATION FOR A SEARCH WARRANT**

I, Alyson M. Berry, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the body of IRA B. HARRIS (HARRIS), (born in 1967), to collect deoxyribonucleic acid (DNA) samples by way of buccal swabs. I believe HARRIS's DNA may match that in semen recovered from his truck and a recently born child.

2. HARRIS is currently charged by complaint, which includes an allegation of violating 18 U.S.C. §§ 1152 and 2242(2)(A), that being engaging in a sexual act with a person who was incapable of apprising the nature of the conduct. HARRIS is currently out on conditions of release and living at his home in Shiprock, New Mexico. The parties are currently engaged in pre-indictment negotiations.

3. I am a Special Agent of the Federal Bureau of Investigation ("FBI"), where I have been employed in that capacity since July 2020. I am currently assigned to the Albuquerque Division of the FBI, Farmington Resident Agency, and have primary investigative responsibility for crimes that occur in Indian Country, including violent crimes such as homicide, robbery, aggravated assault, and child sexual assault. In 2021, I attended an Indian Country Crime Scene

Investigation course, including advanced techniques for evidence collection and best practices for interviews and case management.

4. Through my training and experience, I am aware that bodily fluids, like semen and saliva, contain DNA, which can be used to help identify an individual, and that DNA from bodily fluids can be used to help identify the biological family of an individual.

5. The facts set forth in this affidavit come from my personal observations, my training and experience, and information obtained from other Agents and witnesses. This affidavit is intended merely to show that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. Throughout this affidavit, reference will be made to law enforcement officers. Law enforcement are those federal, state, and local law enforcement officers who have directly participated in this investigation, and with whom your affiant has had regular contact regarding this investigation.

6. A more detailed description and photograph of HARRIS is contained within Attachment A, which is incorporated by reference. Your affiant has set forth only the facts believed to be necessary to establish probable cause that violations to 18 U.S.C. §§ 1152 and 2242(2)(A), that being engaging in a sexual act with a person who was incapable of apprising the nature of the conduct, and 18 U.S.C. §§ 1152 and 2243(a), that being sexual abuse of a minor. There is also probable cause to search HARRIS as further described in attachment B.

PROBABLE CAUSE

7. On January 19, 2022, Navajo Police Department (NPD) officers responded to Shiprock High School (SRHS), Shiprock, New Mexico, regarding sexual misconduct between a student and Reserve Officers' Training Corps (ROTC) instructor employed by the school, who was determined to be Harris. The juvenile student, age 16 for all events herein, is identified with

initials B.D. and year of birth 2005 (referred to herein as Jane Doe 1). Jane Doe 1 has a low IQ, is developmentally delayed, suffers from mental health issues, and has had an unstable family life. Because of this, Jane Doe 1 has an Individualized Education Plan at her school.

8. Jane Doe 1 gave her personal tablet to law enforcement to search. A review of it showed that on December 17, 2021, Jane Doe 1 and Harris communicated a plan for her to sneak out of her residence and meet Harris at the bus stop via text messages. From this, additional investigation, and interviews, Agents learned that Jane Doe 1 rode in Harris' grey Ford F250 truck with License Plate LAADGNR on back roads to an unknown location on the Navajo Nation Indian Reservation. During a forensic interview, Jane Doe 1 disclosed the two had vaginal intercourse in the truck and used a condom. Harris drove Jane Doe 1 back to the bus stop. Because Jane Doe 1 was missing for approximately two hours, her grandfather and uncle began searching for her in two separate vehicles. Spotting Harris' truck, Jane Doe 1's uncle parked in front of the truck, and her grandfather parked behind. Jane Doe 1 was immediately removed from Harris' truck and returned home.

9. On February 16, 2022, Albuquerque Evidence Response Team (ERT) executed a search warrant on Harris' grey Ford F250 truck. All applicable items were submitted to the FBI Laboratory for DNA analysis. One of the items collected is described as: "Item 13: Swabbing of semen stain on floormat" from the back passenger area of the vehicle. On September 15, 2022, your affiant received lab results showing, "Male DNA was obtained" that "was interpreted as originating from one individual". Additionally, female DNA with Jane Doe 1's profile was located in the same sample. Comparing a DNA sample from Harris with the male DNA obtained from Item 13 would confirm or negate if the samples match, thus, proving they had sex.

10. On August 26, 2022, your affiant was notified of a pregnant juvenile female identified with initials S.C. and year of birth 2006 (referred to herein as Jane Doe 2); she was 15 years' old at the time her child was conceived. Jane Doe 2 also attended SRHS, was a member of ROTC, and had similar learning disabilities to Jane Doe 1. Jane Doe 2 was reportedly 34 to 36 weeks pregnant at the time FBI Farmington Resident Agency was notified. Based on the fetus' gestational size, Jane Doe 2 became pregnant at 15 years old and while still participating in ROTC under the direction of Harris. Multiple interviews were conducted with Jane Doe 2 in an effort to obtain the name or description of who fathered her baby. Jane Doe 2 eventually disclosed that the father was a much older man, she was forced to have intercourse, and the incident occurred in Shiprock. However, Jane Doe 2 was not ready to disclose the individual's name for fear of what would happen.

11. On September 11, 2022, Jane Doe 2 delivered a baby boy. A buccal swab was obtained from the newborn on the same day and submitted to Albuquerque Evidence. Comparing a DNA sample from Harris with Jane Doe 2's baby would provide evidence as to whether or not he fathered the child.

12. Based on my training and experience, crimes of this nature are often repeated by the offender, either with the same or multiple victims. Given the similarities between Jane Doe 1 and Jane Doe 2, both present as vulnerable juveniles. Both victims have diagnosed learning disabilities, a history of physical and sexual abuse, and inconsistent home life. Harris served as an authoritative figure whom both Jane Doe 1 and Jane Doe 2 admired. Delayed identification of their offender is common with victims who serve as a subordinate, as is the case with Jane Doe 2.

13. Based on the information provided in this affidavit, your affiant respectfully requests that a search warrant be issued for HARRIS to collect oral (buccal) cells for forensic analysis and for the use of evidence in court.

14. The buccal swab samples from HARRIS will be obtained pursuant to approved medical procedures, without unnecessary discomfort to HARRIS, in private, and under circumstances where he will feel little or no pain or embarrassment. HARRIS is described in Attachment A, which is incorporated by reference.

CONCLUSION

15. Based on the above information, there is probable cause to believe that HARRIS committed violations of 18 U.S.C. §§ 1152 and 2242(2)(A), that being engaging in a sexual act with a person who was incapable of apprising the nature of the conduct, and 18 U.S.C. §§ 1152 and 2243(a), that being sexual abuse of a minor, and that the DNA samples sought in this warrant will provide evidence of those violations. Therefore, I am seeking authorization under Rule 41 of the Federal Rules of Criminal Procedure to collect a DNA sample from HARRIS, via buccal swab, to compare with any DNA that is found on the evidence seized in this matter.

16. Assistant United States Attorney Mark Pfizenmayer has reviewed and approved this affidavit for legal sufficiency in support of an application for a search warrant.

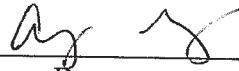
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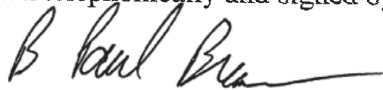
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Respectfully submitted,



Alyson Berry
Special Agent
Federal Bureau of Investigation

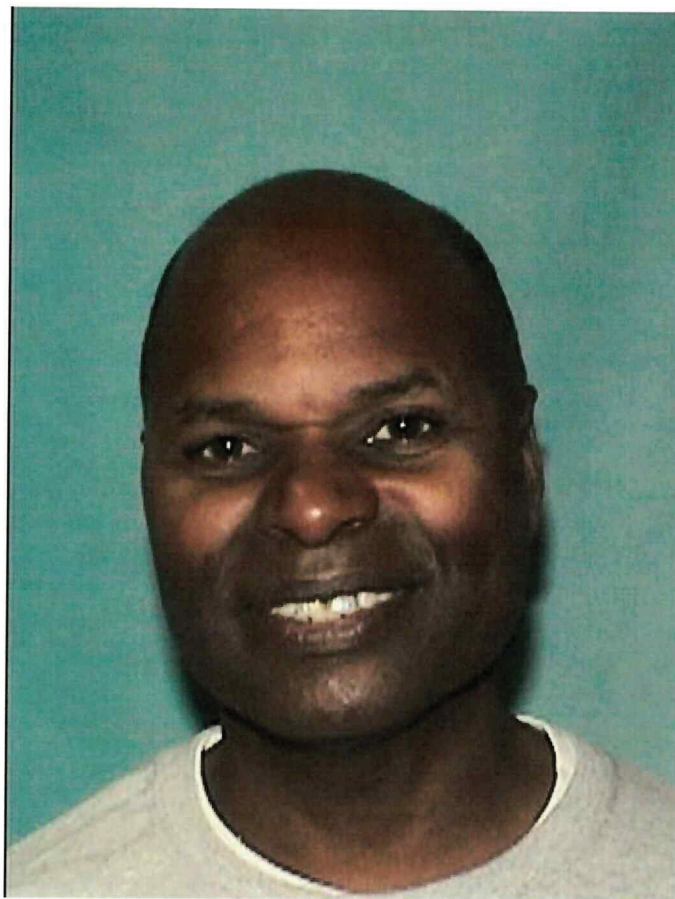
Sworn telephonically and signed by electronic means on September 19, 2022:



THE HONORABLE B. PAUL BRIONES
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

1. The person of Ira B. HARRIS, date of birth 04/19/1967, social security number 554-06-5526, an African American male, 5'9", 185 lbs., New Mexico Driver's License 514108455 listing address 717 Monarch Street, Farmington, New Mexico, 87401



ATTACHMENT B

Particular Things to be Seized

1. DNA evidence in the form of saliva with a buccal swab from IRA B. HARRIS.